

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DURRELL ANTHONY PUCKETT,

Plaintiff,

v.

BARAONA, *et al.*,

Defendants.

Case No. 1:21-cv-01448-KES-BAM (PC)

ORDER CONSTRUING FILING AS MOTION
FOR ATTENDANCE OF INCARCERATED
WITNESSES AND REQUEST FOR COURT
ORDER REGARDING WILLINGNESS OF
INCARCERATED WITNESSES TO TESTIFY
(ECF No. 142)

ORDER DENYING AS MOOT REQUEST
FOR COURT ORDER REGARDING
WILLINGNESS OF INCARCERATED
WITNESSES TO TESTIFY
(ECF No. 142)

ORDER HOLDING IN ABEYANCE
PLAINTIFF'S MOTIONS FOR
ATTENDANCE OF INCARCERATED
WITNESSES
(ECF Nos. 142, 145, 147)

**Opposition to Motions for Attendance of
Incarcerated Witnesses: December 16, 2025**

Plaintiff Durrell Anthony Puckett ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This case is set for a jury trial before District Judge Kirk E. Sherriff on March 10, 2026, on Plaintiff's claims against: (1) Defendants Baraona, Burnitzki, Leos, Hernandez, and Diaz for excessive force in violation of the Eighth Amendment; (2) Defendant Leos for sexual assault in violation of the Eighth Amendment; and (3) Defendants A. Ruiz, E. Ruiz, Meier, Gutierrez, Allison (Cronister), and Price for failure to protect in violation of the Eighth Amendment.

1 On May 16, 2025, the Court issued a Second Scheduling Order setting the relevant pretrial
2 filing deadlines and dates for the pretrial conference and jury trial in this action. (ECF No. 135.)
3 Pursuant to the Second Scheduling Order, the deadline for Plaintiff to file a motion for attendance
4 of incarcerated witnesses was November 18, 2025. The deadline for the filing of any opposition
5 to the motion for attendance of incarcerated witnesses is December 16, 2025. (*Id.*)

6 On August 21, 2025, Plaintiff filed a “Notice and Request of the Court.” (ECF No. 142.)
7 Plaintiff identifies two incarcerated witnesses who agreed to testify on Plaintiff’s behalf, and
8 includes affidavits from each witness, signed under penalty of perjury. However, Plaintiff states
9 that due to mental health complications and CDCR not allowing correspondence between
10 inmates, Plaintiff is unsure if these inmates are still willing to testify or remember the issues in
11 this suit. Plaintiff requests that if the Court grants his request for these witnesses to testify, that
12 the Court issue an order allowing them to file an opposition if they do not agree to testify now or
13 have any underlying mental health conditions. (*Id.*)

14 Upon review of the filing, the Court finds it appropriate to construe the filing as a motion
15 for attendance of incarcerated witnesses and request for Court order regarding willingness of
16 incarcerated witnesses to testify. Defendants have not had an opportunity to respond to Plaintiff’s
17 request for a Court order, but the Court finds a response to this request unnecessary. This portion
18 of the motion is deemed submitted. Local Rule 230(l).

19 Plaintiff’s request for a Court order regarding the willingness of Plaintiff’s proposed
20 incarcerated witnesses to testify is denied as unnecessary. Plaintiff has provided affidavits from
21 each inmate, signed under penalty of perjury, indicating that at the time of signing, each inmate
22 was willing to testify and remembered the relevant events. If the Court grants Plaintiff’s request
23 for attendance of these witnesses at trial, the witnesses will have the opportunity to respond to the
24 Court’s order directing their attendance at trial with any opposition.

25 At this time, the Court will hold in abeyance Plaintiff’s motion for attendance of these
26 witnesses at trial, as well as Plaintiff’s subsequent motions regarding his additional incarcerated
27 witness. (ECF Nos. 142, 145, 147.) Pursuant to the May 16, 2025 Second Scheduling Order, any
28 opposition to Plaintiff’s motions for attendance of incarcerated witnesses remains due on or

1 before **December 16, 2025**. (ECF No. 135.)

2 Accordingly, IT IS HEREBY ORDERED as follows:

- 3 1. Plaintiff's August 21, 2025 filing, (ECF No. 142), is CONSTRUED as a motion for
4 attendance of incarcerated witnesses and request for Court order regarding willingness of
5 incarcerated witnesses to testify;
- 6 2. Plaintiff's request for Court order regarding willingness of incarcerated witnesses to
7 testify, (ECF No. 142), is DENIED, as unnecessary;
- 8 3. Plaintiff's motions for attendance of incarcerated witnesses, (ECF Nos. 142, 145, 147), are
9 HELD IN ABEYANCE pending expiration of the opposition deadline; and
- 10 4. Any opposition to the motions for the attendance of incarcerated witnesses shall be filed
11 on or before **December 16, 2025**.

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13 IT IS SO ORDERED.

14 Dated: **November 20, 2025**

15 /s/ *Barbara A. McAuliffe*
16 UNITED STATES MAGISTRATE JUDGE
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